

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Harrisonburg Division

TAMMY JOHNSON,

Plaintiff,

v.

Case No. 5:19-cv-00049

CITY OF STAUNTON SCHOOL BOARD,

Defendant.

ANSWER

NOW COMES the Defendant, the City of Staunton School Board (“School Board”), by counsel, and for its Answer to the Plaintiff’s Complaint, hereby denies that it is liable to the Plaintiff, denies that the Fair Labor Standards Act (“FLSA”) was violated, and further states as follows:

1. In answer to paragraph 1, the School Board admits that Plaintiff attempts to bring a claim under the FLSA and a state law claim for breach of contract, but specifically denies that the FLSA was violated, that the Plaintiff is entitled to the payment of back wages or accrued sick leave, and further avers that the Plaintiff has been paid all wages that were owed to her.

JURISDICTION AND VENUE

2. In answer to paragraph 2, the School Board admits that this Court has jurisdiction over this matter, but denies that the FLSA has been violated or that Plaintiff has a valid state law claim for breach of contract.

3. In answer to paragraph 3, the School Board admits that venue is proper in this Court, but denies that the School Board took any act that would give rise to a valid claim under the FLSA or state law.

PARTIES

4. In answer to paragraph 4, the School Board, upon information and belief, admits that the Plaintiff is a citizen of the United States and a resident of Harrisonburg, Virginia. The School Board further admits that Plaintiff is a former employee of the School Board who began working in an exempt capacity under the FLSA with the School Board in 2001. The School Board avers that in June of 2013, the Plaintiff's position title was renamed Coordinator of Transportation. The School Board further avers that while the Coordinator of Transportation position was labeled as non-exempt, the Plaintiff's job duties and responsibilities essentially remained the same. The School Board further avers that Plaintiff was compensated for all hours worked and denies any remaining allegations in the manner and form alleged.

5. In answer to paragraph 5, School Board admits that under Virginia law, the School Board is a body corporate, and vested with the power to operate the public schools in the City of Staunton pursuant to Article VIII, Section 7 of the Virginia Constitution and the Code of Virginia § 22.1–71. The School Board denies the remaining allegations in the manner and form alleged.

6. In answer to paragraph 6, School Board avers that the allegations merely state a legal conclusion which is denied in the manner and form alleged.

7. In answer to paragraph 7, School Board avers that the allegations merely state a legal conclusion which is denied in the manner and form alleged.

8. In answer to paragraph 8, School Board denies the allegations contained therein in the manner and form alleged and avers that Plaintiff's job duties and responsibilities essentially remained the same after position title was renamed.

9. In answer to paragraph 9, School Board avers that the allegations merely state a legal conclusion which is denied in the manner and form alleged.

10. In answer to paragraph 10, School Board admits that in June of 2013, Plaintiff continued to be employed in the same capacity as she had previously been employed, although the title for her position changed from Supervisor of Transportation to Coordinator of Transportation.

11. In answer to paragraph 11, School Board admits that, pursuant to the agreed upon Notification of Employment for the 2017-2018 school year, Plaintiff was compensated for 240 day schedule on a salary equivalent of \$48,551.00, with a 3% increase effective October 1, 2017, equaling a rate of pay of approximately \$208.36 a day and \$26.0458 an hour.

12. In answer to paragraph 12, School Board denies that the Plaintiff was the only one “stationed” at the transportation office and further denies that it was aware that Plaintiff “worked through her lunch break.” The School Board admits that it used a robust electronic time accounting system called “Kronos” to accurately record the hours worked by employees and that Plaintiff was trained on the operation of “Kronos”, including training on override options. The School Board further avers that the Plaintiff was specifically told that she was required to take a lunch break and indeed signed an employment notice to this effect. Moreover, Plaintiff was aware that she could override her time records to accurately record the time she worked if she believed it was necessary to do so, but Plaintiff did not change her time records to reflect additional time worked nor did she report that she worked additional hours from those recorded in “Kronos”. In fact, Plaintiff was experienced in claiming overtime, and was compensated for time that she reported working in excess of 40 hours a week through compensatory time, and as part of Plaintiff’s job duties, she reviewed and approved other employee’s time records. The School Board denies the remaining allegations contained therein.

13. In answer to paragraph 13, the School Board admits the allegations contained therein.

14. In answer to paragraph 14, the School Board denies the allegations contained therein.

15. In answer to paragraph 15, the School Board denies that Plaintiff worked through lunch breaks, but admits that there were times that Plaintiff was “on-call” for which she was lawfully compensated. The School Board denies the remaining allegations in the manner and form alleged and avers that Plaintiff has no verifiable documentation to support her claims.

16. In answer to paragraph 16, the School Board denies the allegations contained therein and avers that Plaintiff was compensated for the time that she reported working in excess of 40 hours a week through compensatory time. The School Board further avers that she has no verifiable documentation to support her claims nor did she ever report these hours worked during her employment with the School Board.

17. In answer to paragraph 17, the School Board admits that Plaintiff participated in interviews and handled employee complaints, but denies the remaining allegations contained therein in the manner and form alleged.

18. In answer to paragraph 18, the School Board denies the allegations contained therein in the manner and form alleged.

19. In answer to paragraph 19, the School Board admits the allegations therein.

20. In answer to paragraph 20, the School Board denies the allegations contained therein.

21. In answer to paragraph 21, the School Board denies the allegations contained therein.

22. In answer to paragraph 22, the School Board denies the allegations contained therein.

COUNT I – FAIR LABOR STANDARDS ACT

23. In answer to paragraph 23, the School Board incorporates its answers to paragraphs 1–22 as if fully set forth herein.

24. In answer to paragraph 24, the School Board admits that the Plaintiff was employed as the Coordinator of Transportation, but denies any remaining allegations in the manner and form alleged.

25. In answer to paragraph 25, the School Board avers that the allegations merely state a legal conclusion to which no answer is required. To the extent an answer is required, the School Board denies that the Plaintiff was entitled to overtime or that it violated the FLSA in any way.

26. In answer to paragraph 26, the School Board denies the allegations contained therein.

27. In answer to paragraph 27, the School Board denies the allegations contained therein.

28. In answer to paragraph 28, the School Board denies the allegations contained therein.

29. In answer to paragraph 29, the School Board denies the allegations contained therein, and avers that the School Board used an electronic time accounting system called “Kronos” to accurately record the hours worked by employees and that Plaintiff was trained on the operation of “Kronos”, including training on override options. The School Board further avers that the Plaintiff was specifically told that she was required to take a lunch break and

indeed signed an employment notice to this effect. Moreover, Plaintiff was aware that she could override her time records to accurately record the time she worked if she believed it was necessary to do so, but Plaintiff did not change her time records to reflect additional time worked nor did she report that she worked additional hours from those recorded in “Kronos”. The School Board further avers that Plaintiff was compensated for the time that she reported working in excess of 40 hours a week through compensatory time.

30. In answer to paragraph 30, the School Board denies the allegations contained therein.

31. In answer to paragraph 31, the School Board denies the allegations contained therein.

32. In answer to paragraph 32, the School Board denies the allegations contained therein.

COUNT II – BREACH OF CONTRACT

33. In answer to paragraph 33, the School Board incorporates its answers to paragraphs 1–32 as if fully set forth herein.

34. In answer to paragraph 34, the School Board admits that it had policies for the accumulation of sick pay for employees, but denies the remaining allegations contained therein in the manner and form alleged.

35. In answer to paragraph 35, the School Board denies that this alleged policy applied to the Plaintiff and therefore denies the allegations contained therein in the manner and form alleged.

36. In answer to paragraph 36, the School Board denies the allegations contained therein.

37. In answer to paragraph 37, the School Board denies that the Plaintiff was entitled to pay for accumulated sick leave or for such amounts to be paid to her 403b plan and therefore denies the allegations contained therein in the manner and form alleged.

38. In answer to paragraph 38, the School Board denies the allegations contained therein.

PRAYER FOR RELIEF

39. In answer to this unnumbered paragraph, School Board denies that the Plaintiff is entitled to the relief requested, including in subparagraphs A–F.

AFFIRMATIVE AND SPECIAL DEFENSES

40. The School Board avers that all actions taken were in good faith and based on legitimate reasons, and not solely or in part, based on illegal motives or consideration, in believing its actions were in compliance with the FLSA.

41. The School Board denies all allegations contained in the Complaint not specifically admitted herein, and specifically denies that the FLSA was violated in any way.

42. The School Board denies that it is indebted to the Plaintiff in the amount claimed or in any amount for the reasons stated or for any reason, and further avers that Plaintiff was paid for all hours worked in excess of 40 hours in any particular workweek.

43. The School Board avers that, in the alternative and to the extent demonstrated by the evidence, the Plaintiff's claims are barred by the applicable statutes of limitations as contained in the Fair Labor Standards Act.

44. The claims of the Plaintiff are barred because any acts or omissions by School Board were in good faith conformance with a written administrative regulation, order, ruling, approval, or interpretation by the Administrator of the Wage and Hour Division of the U.S.

Department of Labor, or an administrative practice or enforcement policy of such agency and/or judicial orders and interpretations with respect to the class of employers to which the Defendant belongs.

45. The School Board avers that the Plaintiff is not entitled to punitive or liquidated damages as the School Board did not act or fail to act in a manner sufficient to give rise to punitive/liquidated damages liability.

46. The School Board avers that Plaintiff's action is barred because she seeks to recover for time that is de minimus work time and thus not compensable under the FLSA.

47. The School Board avers that the Plaintiff is estopped by the submission of her own time records, for which the School Board compensated Plaintiff for all overtime worked and claimed.

48. Plaintiff has failed to mitigate her alleged damages and her claims are barred by the doctrine of waiver and estoppel.

49. The School Board will rely on all other properly provable defenses to this action that are revealed through investigation, discovery, or at trial and reserves the right to amend this Answer to the Complaint at any time.

WHEREFORE, for the foregoing reasons, the City of Staunton School Board respectfully requests judgment in its favor together with costs and attorney fees expended.

JURY DEMAND

The School Board demands a trial by jury on all issues triable by jury in this matter.

**CITY OF STAUNTON SCHOOL
BOARD**

By Counsel

s/Jeremy D. Capps

Jeremy D. Capps (VSB No. 43909)
Counsel for City of Staunton School Board
Harman, Claytor, Corrigan & Wellman
P.O. Box 70280
Richmond, Virginia 23255
804-747-5200 - Phone
804-747-6085 - Fax
jcapps@hccw.com

C E R T I F I C A T E

I hereby certify that on the 26th day of August, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

s/Jeremy D. Capps

Jeremy D. Capps (VSB No. 43909)
Counsel for City of Staunton School Board
Harman, Claytor, Corrigan & Wellman
P.O. Box 70280
Richmond, Virginia 23255
804-747-5200 - Phone
804-747-6085 - Fax
jcapps@hccw.com